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8   UNITED STATES DISTRICT COURT

9   EASTERN DISTRICT OF CALIFORNIA

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12   UNITED STATES OF AMERICA,   No. 2:95-cr-235-WBS

13   Plaintiff,

14   v.   ORDER

15   JESUS ANDRES PADILLA DE LA VEGA,

16   Defendant.

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19   Before the court is defendant Jesus Andres Padilla De

20   La Vega's Emergency Motion for Compassionate Release under 18

21   U.S.C. § 3582(c)(1)(A). (Docket No. 356.) A defendant may

22   obtain such relief only through a motion by the Director of the

23   Bureau of Prisons or upon the defendant's own motion "after the

24   defendant has fully exhausted all administrative rights to appeal

25   a failure of the Bureau of Prisons to bring a motion on the

26   defendant's behalf or the lapse of 30 days from the receipt of

27   such a request by the warden of the defendant's facility,

28   whichever is earlier[.]" 18 U.S.C. § 3582(c)(1)(A).

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1   This administrative exhaustion requirement is

2 mandatory. See, e.g., United States v. Meron, No. 2:18-cr-209

3 KJM (E.D. Cal. Apr. 14, 2020) (citing United States v. Carver,

4 No. 4:19-CR-06044-SMJ, 2020 WL 1604968, at *1 (E.D. Wash. Apr. 1,

5 2020)); United States v. Holden, No. 3:13-CR-00444-BR, 2020 WL

6 1673440, at *10 (D. Or. Apr. 6, 2020); see also Gallo Cattle Co.

7 v. U.S. Dep't of Agric., 159 F.3d 1194, 1197 (9th Cir. 1998)

8 ("[W]hile judicially-created exhaustion requirements may be

9 waived by the courts for discretionary reasons, statutorily-

10 provided exhaustion requirements deprive the court of

11 jurisdiction and, thus, preclude any exercise of discretion by

12 the court."). Here, there is no indication that defendant has

13 made any request to the Bureau of Prisons for his release or that

14 he has exhausted his administrative remedies for any such

15 request.

16   IT IS THEREFORE ORDERED that defendant's motion (Docket

17 No. 356) be, and the same hereby is, DENIED without prejudice to

18 refiling after defendant has exhausted his administrative

19 remedies with the Bureau of Prisons.

20 Dated: June 23, 2020

21 WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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